

REMARKS

This application has been reviewed in light of the Office Action mailed on May 8, 2007. Claims 1-9, 12-22 and 24-25 are currently pending in this application with Claims 1 and 12 being in independent form. Claims 1 and 12 have been amended by this response and Claims 23 and 26 have been canceled by this response. In view of the amendments and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

By this Amendment, Applicants have amended each of independent claims 1 and 12 to recite, "at least one side of the needled end portion being displaced by an angle α from a plane parallel to the longitudinal axis, the angle α being between about 2° and about 10°, wherein the side of the needled end portion displaced by angle α from the plane parallel to the longitudinal axis has a substantially continuous slope between the enlarged transition portion and the needle point." Support for this amendment is found throughout Applicants' specification, for example, in Figure 5.

Claims 1-8 and 12-21 and 24 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,730,732 to Sardelis et al. in view of U.S. Patent No. 5,030,228 to Wong et al., further in view of U.S. Patent No. 5,403,344 to Allen and further in view of U.S. Patent No. 5,820,609 to Saito. Sardelis et al. disclose a needle having three sides, with each side including a single surface. Wong et al. disclose a three-sided needle without an enlarged transition zone. Allen discloses a needle having three sides, with each side includes five surfaces. Saito discloses a hollow, hypodermic needle for injecting or removing bodily fluid.

Applicants have hereby amended each of claims 1 and 12 to recite, *inter alia*, "at least one side of the needled end portion being displaced by an angle α from a plane parallel to

the longitudinal axis, the angle α being between about 2° and about 10° , wherein the side of the needled end portion displaced by angle α from the plane parallel to the longitudinal axis has a substantially continuous slope between the enlarged transition portion and the needle point.”

Neither of the Sardelis et al., Wong et al., Allen or even Saito references disclose, teach or even remotely suggest these features alone or in combination. Rather, the needle points of Sardelis et al., Wong et al. and Allen are coplanar with respective lower surfaces of the needled end. While the hypodermic needle of the Saito reference may disclose a needle point that is not coplanar with a surface of the needled end, Saito does not disclose a “side of the needled end portion displaced by angle α from the plane parallel to the longitudinal axis has a substantially continuous slope between the enlarged transition portion and the needle point,” as presently claimed.

Moreover, the four-way combination of Sardelis et al., Wong et al., Allen and Saito is improper. The Examiner has failed to overcome her burden of factually supporting her *prima facie* conclusion of obviousness. According to the strict guidelines of the MPEP, an Examiner must show a suggestion or motivation to modify the reference or to combine reference teachings; and a reasonable expectation of success.

Here, the Examiner’s combination of cutting needles, tapered needles, and the hollow, hypodermic needle of Saito is improper. There is no indication that the combination of Sardelis et al., Wong et al., Allen and Saito would function the way the claimed invention does, thus there is no expectation of success. One skilled in the art of designing and making suture needles, such as those described and claimed in Applicants’ disclosure, would not gain any insight from designs of hollow, hypodermic needles, as the functions of each are not even

remotely similar (i.e., guiding a suture through tissue vis-à-vis removing or injecting fluid into a body). Therefore, there is no suggestion or motivation to combine references relating to needles used for suturing and references relating to hypodermic needles. Thus, the asserted combination of the four references is improper. For at least these reasons, Applicants respectfully request withdrawal of this rejection with respect to Claims 1 and 12 and to Claims 2-9, 13-21 and 24, which depend therefrom.

Claim 9 stands rejected under 35 U.S.C. §103(a) over the combination of Sardelis et al., Wong et al., Allen, Saito and further in view of U.S. Patent No. 5,797,961 to Smith et al. Applicants respectfully submit that claim 9 is at least patentable for the reasons independent claim 1 is patentable as outlined hereinabove. Accordingly, withdrawal of this five-way rejection is respectfully requested.

Claims 22, 23, 25 and 26 were rejected under 35 U.S.C. §103(a) over the combination of Sardelis et al., Wong et al., Allen, Saito and further in view of U.S. Patent No. 4,513,747 to Smith. Applicants respectfully submit that claims 22 and 25 for the reasons independent claims 1 and 12, respectively, are patentable as outlined hereinabove. Claims 23 and 26 have been canceled by this amendment. Accordingly, withdrawal of this five-way rejection is respectfully requested.

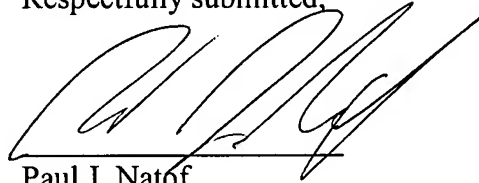
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely Claims 1-9, 12-22, 24 and 25, are in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, she is requested to call the Applicants' undersigned attorney at her convenience.

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road
Suite 225
Melville, New York 11747
Tel.: (631) 501-5700
Fax: (631) 501-3526

Respectfully submitted,



Paul J. Natof
Reg. No. 54,333
Attorney for Applicants

Mailing Address:
Chief Patent Counsel
UNITED STATES SURGICAL
Division of Tyco Healthcare Group LP
195 McDermott Road
North Haven, CT 06473
(203) 492-8193